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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Forty-first session

PROVISIONAL SUMMARY RECORD OF THE 952nd MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 12 August 1992, at 10 a.m.

Chairman: Mrs. SADIQ ALI

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The meeting was called to order at 10.20 a.m.

ORGANIZATION OF WORK

Mr. de GOUTTES said it had been decided the previous year that there should be regular contacts with the Sub-Commission on Prevention of Discrimination and Protection of Minorities. At the current session, lack of time had made such meetings difficult to arrange. Since the Chairman was in hospital, Mr. Ferrero Costa might contact the Chairman of the Sub-Commission with a view to determining what form future liaison would take.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (continued)

Initial report of Saint Vincent and the Grenadines (CERD/C/85/Add.1) (continued)

Mr. BANTON, country rapporteur, read out the following proposed concluding observations:

"1. In concluding the review, the Committee regretted that Saint Vincent and the Grenadines had not been able to respond to its invitation to participate in its meeting and to furnish relevant information. The Committee wished to draw the attention of the Government of the State party to the possibility of requesting technical assistance for the United Nations Centre for Human Rights in the preparation of its reports. It hoped to receive a new report shortly.

"2. The Committee asked Saint Vincent and the Grenadines to furnish a copy of that section of the Constitution which is said to provide protection against racial discrimination."

The concluding observations on the report of Saint Vincent and the Grenadines were approved.

The CHAIRMAN said that the Committee had concluded its consideration of the report of Saint Vincent and the Grenadines.

Second periodic report of Cape Verde (CERD/C/86/Add.4) (continued)

Mr. LAMPTEY, country rapporteur, read out the following proposed concluding observations:

"In concluding the review, the Committee was of the view that Cape Verde had not fully responded to the questions and comments raised by members of the Committee during the consideration of its previous reports. In view of the notable democratic traditions in that country, the Committee particularly regretted that Cape Verde had not fulfilled

its reporting obligations under the Convention. The Committee urged the State party to correct this situation and to submit a report, as soon as possible, taking into account the Committee's present review. In this regard, the State party was advised to follow the revised guidelines of the Committee and to provide the core information requested in document HRI/1991/1."

Mr. FERRERO COSTA said that he did not agree with the second sentence, which raised an issue that had not been properly discussed in the Committee.

Mr. RECHETOV said that the first sentence merely stated a truism, in that no country responded in its report to all of the questions raised in the course of discussion or all of the requests for further information.

Mr. LAMPTEY said that Mr. Rechetov's comment was timely, but that that fact did not obviate the need to remind States parties of their reporting obligations.

He did not agree with Mr. Ferrero Costa's objection to the second sentence, which was fully compatible with the views expressed during the discussion of the report.

Mr. ABOUL-NASR said that the same yardstick must be applicable to all States parties. In order not to cause offence, wording to the effect that the Committee requested the State party further to respond to questions and comments could be incorporated in the first sentence. The second sentence was less than satisfactory in that the Committee appeared to be passing judgement on which States were democratic and which were not.

Mr. GARVALOV said that there should be a general observation applicable to cases in which the response of the State party had been inadequate.

Mr. ABOUL-NASR said that the first sentence might read: "In concluding the review, the Committee regretted that Cape Verde had not been able to attend the meeting, and that it required further information in response to questions and comments raised by members of the Committee during the consideration of its previous reports".

The CHAIRMAN said that Mr. Banton could produce a revised draft text incorporating the suggestions made, and that the Committee's approval would be deferred until the revised text was available.

Initial report of Papua New Guinea (CERD/C/101/Add.4) (continued)

Mr. WOLFRUM, the country rapporteur, read out the following proposed concluding observations:

"1. The Committee regretted that Papua New Guinea had not responded to its invitation to participate in its meeting and to furnish relevant information. The Committee wished to draw the attention of the Government of the State party to the possibility of requesting technical assistance from the United Nations Centre for Human Rights in the preparation of its reports. It hoped to receive a new report shortly.

"2. In drafting its report the Government of Papua New Guinea should not only report on the legal situation as far as the prohibition of racial discrimination is concerned, but should inform the Committee about the social, economic and educational situation of the various ethnic groups, especially about the effect of mining in Bougainville or in other places of Papua New Guinea upon the situation of the local population."

He added that, in view of the request for further information, there was no real need for concluding observations.

Mr. van BOVEN said that he agreed with the previous speaker that no concluding observations were required, since a request for further information, in accordance with article 9, paragraph 1, had been formally made by the Committee. That request should be reflected in the Committee's report.

Mr. FERRERO COSTA said the fact that the Committee had taken a formal decision to request further information did not preclude the possibility of mentioning that request in the concluding observations.

Mr. WOLFRUM proposed, on the basis of suggestions made to him, that in the first sentence of the concluding observations, "had not responded" should be replaced by "had not been able to respond", and that the two existing paragraphs should be consolidated. After the third sentence, the text would now read: "In drafting its report, the Government of Papua New Guinea should not only report on the legal situation as far as the prohibition of racial discrimination is concerned, but should inform the Committee about the social, economic and educational situation of the various ethnic groups, and about the effect of mining upon the situation of the local population. In accordance with article 9, paragraph 1, of the Convention, the Committee requested further information from the Government of Papua New Guinea on the situation in Bougainville."

The concluding observations on the report of Papua New Guinea, as amended, were approved.

The CHAIRMAN said that the Committee had concluded its consideration of the report of Papua New Guinea.

Third, fourth and fifth periodic reports of Botswana (CERD/C/105/Add.1) (continued)

Mr. BANTON, country rapporteur, read out the following proposed concluding observations:

"1. In concluding the review, the Committee regretted that Botswana had not been able to respond to its invitation to participate in its meeting and to furnish relevant information. The Committee wished to draw the attention of the Government of the State party to the possibility of requesting technical assistance from the United Nations Centre for Human Rights in the preparation of its reports. It hoped to receive a new report shortly.

"2. The Committee invited Botswana to provide an account of integrationist multiracial organizations, of how its legislation corresponds with article 5 of the Convention, and of how easy it is for ordinary people to utilize their legal remedies."

The concluding observations on the reports of Botswana were approved.

The CHAIRMAN said that the Committee had concluded its consideration of the reports of Botswana.

Third, fourth and fifth periodic reports of the Lao People's Democratic Republic (CERD/C/105/Add.4) (continued)

Mr. DE GOUTTES, country rapporteur, read out the following proposed concluding observations:

"The Committee regrets that the Government of the Lao People's Democratic Republic has not submited a periodic report since 1984 and has been unable to respond to the invitation to take part in the present session.

"Recognizing the difficult situation in Laos and the changes under way, the Committee wishes to encourage Laos along the path of democratization and to draw its attention to the possibility of obtaining technical assistance from the United Nations Centre for Human Rights in the preparation of its reports.

"The Committee hopes that the Government of Laos will submit its new report as soon as possible. The report should be presented in accordance with the guidelines laid down by the Committee and provide, in particular, information on the country's main social, economic and demographic indicators, on the content of the new 1991 Constitution, on the reforms undertaken with a view to democratization and the protection of human rights, on the measures taken to improve the situation of ethnic minorities, on penal legislation against racism and its application by the courts, on the situation of refugees, on the elimination of 're-education camps' and of restrictions on freedom of movement."

Mr. RECHETOV said he did not understand why an invitation to seek technical assistance was given only to some of the countries that had failed to submit reports or follow the appropriate guidelines. The reference to technical assistance should, in his view, be made in letters addressed to individual countries, not in concluding observations.

Mr. SONG Shuhua said that it was not necessary to include a reference to technical assistance, since if countries needed such assistance, they would approach the Centre for Human Rights.

Mr. BANTON supported Mr. Rechetov and Mr. Song Shuhua, but thought there would always be slight discrepancies between the concluding observations on different countries. He would provide a review of the problems of drafting such observations for discussion at a later stage.

The concluding observations on the reports of Lao People's Democratic Republic were approved.

The CHAIRMAN said that the Committee had completed its consideration of the reports of the Lao People's Democratic Republic.

Initial reports of the Solomon Islands

Mr. LECHUGA HEVIA read out the following proposed concluding observations:

"1. As the last, and only, report was made nine years ago, the Committee cannnot make an up-to-date assessment of the situation in the country with regard to implementation of the Convention.

"2. The initial report of the Government of the Solomon Islands was very incomplete and there has been no response to the questions addressed to the government representative during the Committee's examination of the report.

"3. At that time, neither the Constitution nor the legislation of the country was available, so the Government needs to provide these documents to the Committee.

"4. It can be seen from the discussion in the Committee with the government representative and from the written report itself that the provisions of the Convention are not being fully implemented.

"5. We recommend that a letter should be sent to the Government of the Solomon Islands requesting that, in its next report, it should respond to all the questions put by the Committee and should avail itself of the services of the United Nations Centre for Human Rights in compiling its report."

The concluding observations on the reports of the Solomon Islands were approved.

The CHAIRMAN said that the Committee had concluded its consideration of the reports of the Solomon Islands.

Sixth periodic report of Lesotho (CERD/C/90/Add.2) (continued)

Mr. BANTON read out the following proposed concluding observations:

"1. In concluding the review the Committee regretted that Lesotho had not been able to respond to its invitation to participate in its meeting and to furnish relevant information. The Committee wished to draw the attention of the State party to the possibility of requesting technical assistance from the United Nations Centre for Human Rights.

"2. It hoped shortly to receive a new report in accordance with the Committee's reporting guidelines together with a core document in accordance with the guidelines (HRI/1191/1)."

The concluding observations on the report of Lesotho were approved.

The CHAIRMAN said that the Committee had concluded its consideration of the report of Lesotho.

Fourth and fifth periodic reports of Burkina Faso (CERD/C/105/Add.5) (continued)

Mr. BANTON read out the following proposed concluding observations:

"1. In concluding the review, the Committee regretted that Burkina Faso had not been able to respond to its invitation to participate in its meeting and to furnish relevant information. The Committee wished to draw the attention of the Government of the State party to the possibility

of requesting technical assistance from the United Nations Centre for Human Rights in the preparation of its reports. It hoped to receive a new report shortly.

"2. When the sixth periodic report was considered, the Committee noted many gaps in Burkina Faso's legislation in respect of the Convention. So far as the Committee is aware, these gaps remain."

The concluding observations of the reports of Burkina Faso were approved.

The CHAIRMAN said that the Committee had concluded its consideration of the reports of Burkina Faso.

(Ninth and tenth periodic reports of Chile (CERD/C/196/Add.1 (continued)

Mr. WOLFRUM read out the following proposed concluding observations:

"1. The Committee took note of the revision of the Chilean Constitution and the changes to the legal system resulting from the return to the rule of law. The Committee expected such development to benefit the ethnic groups in Chile, especially the indigenous peoples.

"2. The Committee welcomed the frankness with which the new Government of Chile acknowledged the history of discrimination against the indigenous peoples. It took note of the measures being taken to improve the situation of indigenous peoples and expects that this policy be continued so as to improve their economic, social and educational status, as well as their enjoyment of human rights in accordance with article 5 of the Convention.

"3. Recalling General Recommendation I, the Committee reiterated the importance of enacting legislation in accordance with article 4. The Penal Code and the Code of Criminal Procedure also needed reconsideration.

"4. The Committee welcomed the statement of the Chilean delegation concerning the possibility that the Chilean Government might make the declaration under article 14.

"5. While appreciating the new policies being developed, the Committee expressed the hope that the next periodic report would contain further information and would follow the Committee's general guidelines."

The concluding observations on the reports of Chile were approved.

The CHAIRMAN said that the Committee had concluded its consideration of the reports of Chile.

The CHAIRMAN said that the Committee had completed its consideration of all the country reports.

ACTION BY THE GENERAL ASSEMBLY AT ITS FORTY-SIXTH SESSION

(a) Annual report submitted by the Committee on the Elimination of Racial Discrimination under article 9, paragraph 2, of the Convention (General Assembly resolution 46/83)

(b) Effective implementation of international instruments on human rights, including reporting obligations under international instruments on human rights (General Assembly resolution 46/111)

Mr. BANTON, referring to the document on the item prepared by the Secretariat, said that the General Assembly's annual debate on effective implementation of international instruments on human rights was assuming increasing importance for the Committee, as it was no longer the only human rights treaty-monitoring body. The action taken by the Assembly, often in accordance with recommendations by the biennial meeetings of persons chairing the human rights treaty bodies had more and more significance for the Committee's work. It was important to discuss the instructions to be given to the Committee's representative at the next such meeting. Its representative would normally be the Chairman, but in view of Mr. Valencia Rodriguez' state of health, another member might have to be appointed. Having regard to the vital need for an improvement in the further arrangements for the Committee's sessions he suggested that the Committee's representative in the meeting of chairpersons should raise that issue, which could also be brought up in the General Assembly, particularly with regard to invoking the provisions of the Vienna Convention on the Law of Treaties against defaulting States parties.

It would be useful if the Secretariat could prepare a document comparing the working methods of the Committee with those of other treaty-monitoring bodies. The document could also compare workloads, and the time available to complete them. Information could also be provided about the use made of pre-sessional meetings: although the Committee itself had never held such meetings, it would be useful to have some knowledge of the system in case members were asked for their views on it in the future. The document could also make a comparison of the ways in which the different bodies made use of country rapporteurs, and how they approached the task of formulating concluding observations.

He suggested that the Committee might inform other treaty-monitoring bodies that one of its main challenges had been how to digest its experience in monitoring implementation of the Convention, and how to communicate that

experience to a wider audience. It could state that it believed it could play a more active role in enabling States to learn from the experience of other States faced with comparable problems.

Mr. van BOVEN, speaking as the member responsible for liaison with the Committee on Economic, Social and Cultural Rights, said that if the Committee wished he could present a short report on that body's last session.

Mr. BANTON suggested that it might be advisable to deal first with procedural aspects of the liaison arrangements. The assignation of members at the last session had not been for any particular period, and he suggested that that period should run until 1994, when the Committee could review the position and decide whether new members needed to be designated. Three further names needed to be put forward, two to replace Mr. Rhenan Segura and Mr. Vidas on their respective committees, and a third to be responsible for liaison with the Working Group on Indigenous Populations, who would be Mr. Song Shuhua. The Committee should also bear in mind Mr. Aboul-Nasr's comment that the process of appointing members on a voluntary basis had resulted in a certain imbalance in regional distribution. There was also a need to define specifically the tasks of those responsible for liaison: he suggested that the members concerned might send him their views in writing, which he would then put together in a consolidated document for the next session.

Mr. van BOVEN said that, in the light of those comments, he would not present his report at the current session, but would prepare a brief summary in time for the Committee's next session.

Mr. YUTZIS reminded the Committee that its decision to make certain members responsible for maintaining contact with other bodies had been taken on the assumption that work undertaken would be entirely voluntary. The persons concerned had not been nominated or elected, and any regional imbalance that might have resulted was entirely unintentional.

He saw his own liaison role as simply that of an observer, with the task of reporting on any aspects of the Commission's work that were of interest to the Committee. As he understood it, that was how the role had originally been defined, and he saw no need to alter it.

Mr. FERRERO COSTA agreed it had been clearly established that those who had undertaken to be responsible for liaison had done so on a voluntary basis. He supported Mr. Banton's suggestion that the members concerned should

continue in their functions until 1994. The presentation of reports by members responsible for liaison, whether written or oral, should be included as an item on the agenda of the Committee's next session.

Mr. LAMPTEY said he was opposed to the suggestion that the Committee's representative in the meeting of chairpersons should raise the question of invoking the Vienna Convention on the Law of Treaties in regard to States parties which failed to comply with their obligations. States parties would already be fully cognizant of the provisions of that Convention, and it was not for the Committee to make suggestions as to whether or not they should take action under article 11, paragraph 1, of the Convention on the Elimination of All Forms of Racial Discrimination.

He agreed with Mr. Yutzis that the chief task of those responsible for liaison should be to report on matters relevant to the Committee's work. Since all were volunteers, there was no need to specify the period for which they would exercise their functions.

Mr. de GOUTTES stressed that liaison with other bodies was in fact of great importance for the Committee, which had been reproached for letting itself become too isolated. Through liaison, it would be able to update its information, and possibly improve its methods of work. Time should be set aside for the Committee to hear the reports concerned at the current session.

He suggested that, since the Chairman was not available, Mr. Ferrero Costa should be designated to liaise with the Sub-Commission on Prevention of Discrimination and Protection of Minorities.

Mr. de GOUTTES supported that proposal, and suggested that it should be adopted by consensus.

It was so agreed.

Mr. WOLFRUM suggested that the Secretariat should be asked to furnish members responsible for liaison with the necessary background material, which was often difficult to obtain. Such members should be responsible for bringing to the Committee's attention any differences in procedure, for example, in systems of reporting, from which lessons could be learnt. It would also be helpful to hear of the approach taken by other bodies in areas where their functions overlapped with those of the Committee - for example, any action taken under article 27 of the International Covenant on Civil and Political Rights, which was concerned with minorities.

Mr. BANTON said he would prepare a memorandum for the next session reflecting the discussion.

The Committee also had to consider specific suggestions made by the General Assembly as to actions it could take, such as issuing recommendations to States parties, instituting follow-up procedures, devising indicators of progress, or authorizing fact-finding missions.

SUBMISSION OF REPORTS BY STATES PARTIES UNDER ARTICLE 9, PARAGRAPH 1, OF THE CONVENTION (agenda item 6) (continued)

Mr. BANTON said a number of draft general recommendations still remained to be discussed, notably Mr. Wolfrum's recommendation on indirect discrimination, his own recommendation on effectiveness, and a recommendation by Mrs. Sadiq Ali on police training. It had also been suggested that the procedure used in respect of Papua New Guinea, namely to request additional information, should also be used in respect of Burundi and Rwanda, and in that connection he read out the following proposed text:

"In view of recent reports of ethnic conflict in Burundi [Rwanda], and in accordance with rule 65 relating to the provisions of article 9, paragraph 1, of the International Convention on the Elimination of All Forms of Racial Discrimination, the Committee on the Elimination of Racial Discrimination requests further information from Burundi [Rwanda] on that conflict and on its implications for the implementation of the Convention in Burundi [Rwanda].

"The Committee draws the attention of the State party to the Code of Conduct for Law Enforcement Officials adopted by the General Assembly on 17 December 1979 (resolution 34/169). When the military or State security forces exercise police powers, they are expected to observe this Code (commentary (b) to art. 1). Law enforcement agencies should be representative of the community as a whole (preambular paragraph 8 [a]). Force may be used only when strictly necessary (art. 3). No law enforcement official may inflict, instigate or tolerate torture (art. 5). Law enforcement officials who have reason to believe that a violation has occurred shall report the matter to authorities vested with remedial power (art. 8). The General Assembly recommended that States should give favourable consideration to the use of this Code within their

framework of national legislation, while the Economic and Social Council (resolution 1986/10, section IX) has called for periodic reports. Any observations of the State party on the relation of this Code to its measures for responding to ethnic conflict would be of interest to the Committee on the Elimination of Racial Discrimination."

There was also a proposal left over from the previous session for the amendment of the general guidelines to include provision of demographic data. That was an important issue, since although it might be argued that the introduction of the "core" document made it unnecessary to request any information of that kind, in fact none of the first eight "core" documents issued had provided satisfactory information in regard to mother tongues.

Mr. van BOVEN fully supported the suggestion that further information be requested from Burundi and Rwanda: such an action fell squarely within the Committee's mandate. He pointed out that the Committee had already been urged to be more active in taking initiatives, at least within the limits of its powers as defined under the Convention. When the situation of Yugoslavia had been discussed, it had been pointed out that if the Committee had exercised its functions in good time, it could at least have helped to identify some of the problems involved, and would have better lived up to its responsibilities, as well as contributing towards the United Nations policy of "preventive diplomacy". Where there were clear symptoms of a deteriorating situation, it was vital that the Committee should act promptly, and not simply await reports of violations after the event. In view of the many reports from Burundi and Rwanda of violence, executions and disappearances, he fully supported action under article 9, paragraph 1, of the Convention. The Committee could ask that the information concerned should be supplied within one year.

Mr. LAMPTEY said that he would support the proposal to the extent that it requested further information on the conflict from Burundi and Rwanda. He was not, however, in favour of incorporating the remainder of the proposal, which implied that the States were not following the Code of Conduct for Law Enforcement Officials.

Mr. SHAHI said that there seemed to be some contradiction between Mr. van Boven's suggestion that the Committee did not have the authority to take practical action, such as the sending of fact-finding missions, and Mr. Banton's reference to the General Assembly's suggestion that it might authorize such missions.

Mr. AHMADU fully agreed with Mr. Lamptey's comments on the request to be made to Burundi and Rwanda. The Committee had repeatedly cautioned against passing judgement on States, especially when representatives of the latter were not available to provide explanations.

Furthermore, he did not think that information from non-governmental organizations, such as Amnesty International, should be used as a basis for a recommendation or decision by the Committee. Although it could be useful, some Governments considered such reports to be biased and did not recognize the criteria on which they were based.

Mr. LAMPTEY pointed out, in reply to Mr. Shahi, that the suggestion about fact-finding missions had not been contained in a General Assembly decision or recommendation but had merely been put forward by certain delegations. He did not believe that it was within the Committee's power under the Convention to send fact-finding missions; nor was it financially feasible. The question of expanding the Committee's role along those lines might warrant further discussion, but at a later stage.

Mr. ABOUL-NASR said that it was the Committee's duty to express its concern about well-known and documented facts brought to its attention, but not to pass judgement. He suggested that the Committee should proceed in four stages, in accordance with its mandate. It should draw attention to the situation as reported; express concern; request further information of the States parties concerned; and finally, perhaps, draw the States parties' attention to the scope for action under article 11 of the Convention. Regrettable though that might be, it did not seem that the Committee's mandate under the Convention authorized it to take any further action, such as the sending of fact-finding missions.

Mr. WOLFRUM agreed with the four points outlined by the previous speaker. There was, therefore, an emerging consensus within the Committee that it should request further information from Burundi and Rwanda. The second paragraph of the proposal referred to particular areas on which information was sought, and might therefore be redrafted in order to make that

clear to the Governments concerned so that they could respond specifically to the Committee's request. Finally, he agreed with Mr. van Boven that a deadline of one year would be appropriate.

Mr. SHAHI suggested that the deadline might be set at 1 March 1993 so that the Committee could consider the information at its spring session.

Mr. BANTON proposed that, taking into account the comments made by Committee members, the second paragraph of the proposal should be deleted and the first paragraph reworded to read:

> "In view of recent reports of ethnic conflict in Burundi [Rwanda], and in accordance with rule 65 relating to the provisions of article 9, paragraph 1, of the International Convention on the Elimination of All Forms of Racial Discrimination, the Committee on the Elimination of Racial Discrimination requests further information by 1 March 1993 from Burundi [Rwanda] on that conflict, on its implications for the implementation of the Convention in Burundi [Rwanda], and on the relevance to it of the United Nations Code of Conduct for Law Enforcement Officials adopted by the General Assembly on 17 December 1979 (resolution 34/169)."

Mr. ABOUL-NASR said that the serious situation in the countries concerned warranted a reference to the Convention and not just to the Code of Conduct.

Mr. BANTON said that the insertion of the reference to the Code of Conduct for Law Enforcement Officials had been prompted by information which had been brought to his attention, and to the attention of Mrs. Sadiq Ali, to the effect that the authorities of those countries were not in complete control of the forces used for law enforcement.

Mr. DIACONU said he also had some misgivings about referring to only one document, particularly one that had been adopted merely as a resolution of the General Assembly. Mention had been made in the proposal of torture, for instance; a reference to the relevant Convention would have more authority.

Mr. van BOVEN said that the Code of Conduct for Law Enforcement Officials was not a very widely known instrument and lay somewhat outside the Committee's sphere of interest. He would favour a specific reference to article 5 (b) of the Convention on the Elimination of All Forms of Racial Discrimination.

Mr. SHAHI expressed agreement with Mr. van Boven's proposal, although he appreciated the reasons for drawing the attention of Governments to the Code of Conduct, namely to strengthen their hand in controlling the unrestrained behaviour of law enforcement officials in some countries. However limited its scope of action was, the Committee should do what it could to protect people against violence.

The CHAIRMAN requested Mr. Banton to read out the amended text, taking into account the Committee members' proposals.

Mr. BANTON said that the final text remained unchanged up to the word "requests" and should be amended thereafter to read "further information by 1 March 1993 from Burundi [Rwanda] on that conflict and on its implications for the implementation of the Convention, in particular the provisions of article 5 (b), in Burundi [Rwanda]".

The proposal, as amended, was approved.

Revision of the general guidelines

Mr. BANTON recalled that the Committee would be required to reconsider its general guidelines regarding the form and contents of reports to be submitted by States parties under article 9, paragraph 1, of the Convention (CERD/C/70/Rev.2), because that document failed to record adequately the amendments agreed to by the Committee in 1991. That would provide an opportunity to consider the possible insertion of a paragraph about the reporting of the ethnic characteristics of a population, a proposal which had been made in 1991 but on which no decision had been taken. It had been proposed that the following passage should be inserted after the first sentence of the revised part II.

"The ethnic characteristics of the country are of particular importance in connection with the International Convention on the Elimination of All Forms of Racial Discrimination. Many States consider that, when conducting a census, they should not draw attention to factors like race lest this reinforce divisions they wish to overcome. If progress in eliminating discrimination based on race, colour, descent, national and ethnic origin is to be monitored, some indication is needed of the number of persons who could be treated less favourably on the basis of these characteristics. States which do not collect information on these characteristics in their censuses are therefore requested to provide information on mother tongues (as requested in para. 1) as

indicative of ethnic differences, together with any information about race, colour, descent, national and ethnic origins derived from social surveys. In the absence of quantitative information, a qualitative description of the ethnic characteristics of the population should be supplied."

Mr. SHAHI commended the proposal, which was a very flexible one and provided a constructive response in cases where States parties were reluctant to provide data about the demographic composition of their countries.

Mr. LAMPTEY said that the proposal was interesting but required further thought. He was unable to support it as it stood. In some countries, such as Ghana, there was actually a law prohibiting any indication of ethnic or religious differences or origins in official documents. He also disagreed with the criterion of the mother tongue as an indication of ethnic difference.

Mr. DIACONU agreed that the Committee should avoid pressing any issues that might be deemed divisive. However, having regard to the principle of the right to be different, an indication should be given of what those differences were so that the Committee could assess the situation in the country concerned.

Mr. AHMADU said that he, too, had doubts about the proposed paragraph. His own country was one of many that omitted any reference to ethnic, racial or even religious data in their censuses, for reasons of national unity. Some countries even had constitutional provisions prohibiting the inclusion of such data. He hoped that the Committee would take account of such situations and would accept approximate figures so that, for instance, countries seeking the Committee's advice would not be intimidated by a requirement for precise demographic figures.

Mr. WOLFRUM said that he supported the idea behind the proposal, in order to ensure compliance by States parties with article 2, paragraph 2, of the Convention, the provisions of which could not be implemented if a State party did not acknowledge the existence of minorities in its territory. However, the reference to the mother tongue as indicative of ethnic difference was not satisfactory, because it conflicted with the Committee's own definition of a racial or ethnic group as being a matter of self-identification, and because two groups speaking the same language might not necessarily belong to the same ethnic group. He suggested, therefore, that that requirement should be omitted.

The CHAIRMAN suggested that Mr. Banton should redraft the proposal in the light of the discussion.

Mr. LAMPTEY said that all views must be taken into account in the final version of the text. The matter raised was a very important one. He was not against requesting the provision of information, but would not agree to a revision of the guidelines along the lines proposed in the draft text.

Mr. de GOUTTES said that his position was similar to that of Mr. Wolfrum. In France, too, there had been a debate about the provision of statistics on race. The Committee must have some background information, but must adopt a cautious approach to the issue of demographic data. He agreed that the mother-tongue criterion alone was insufficient.

The CHAIRMAN said that the Committee would resume its discussion on a revised draft at a subsequent meeting.

The meeting rose at 1.10 p.m.